

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

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REPLIES TO QUESTIONNAIRE ON
IMPORT LICENSING PROCEDURES

AUSTRALIA

The following notification has been received from the delegation of Australia in response to the questionnaire annexed to L/5640. It comprises two sections with the relevant information on:

1. Customs (Import Licensing) Regulations covering industrial products (pages 2-7); and
2. Fourth Schedule of the Customs (Prohibited Imports) Regulations, covering narcotic drugs and certain psychotropic substances (pages 7-12).

The present document replaces the data previously made available to contracting parties in documents L/5108/Rev.1 and Corr.1.

1. Customs (Import Licensing) Regulations Covering Industrial Products

Outline of System and Purpose of Controls

1.- The Customs (Import Licensing) Regulations provide that the importation of all goods into Australia is prohibited unless

- the goods are excepted from the application of the regulations, or
- a licence is issued under the Regulations

In practice all goods other than a limited range of second hand, used or disposals machinery and equipment (see Answer 2) are excepted from the regulations.

The Minister for Industry and Commerce is responsible for the administration of the Regulations. Certain powers can be and have been delegated under the regulations including the power to issue licences.

Coverage of Controls

2 A brief description of goods covered by import licensing is set out in the table below:

Used, secondhand or disposals earthmoving or excavating vehicles, machinery or equipment (eg. rock buggies, dumpers, graders, draglines, mechanical shovels, loaders, ditchers, excavators, scrapers, bulldozers) and parts thereof

Used, secondhand or disposals tractors (not being agricultural tractors), road rollers and parts thereof,

Certain used secondhand or disposals materials handling equipment (eg. cranes, forklift trucks) and parts thereof,

Used, secondhand or disposals four wheel drive vehicles incorporating an independent chassis, having a gross vehicle weight of less than 10.16 tonnes, excluding public service type passenger vehicles,

Motor cars and station wagons and four wheel drive vehicles not incorporating an independent chassis, including certain variants but not including forward control vehicles, pick ups or utilities, less than five years of age (1)

(1) The Government has decided that import licensing controls on motor vehicles less than five years of age will cease at the end of 1984 and will be replaced by a system of tariff quotas from 1 January 1985.

- There are generic exceptions from the above
 - . non-commercial importations up to \$A100
 - . goods from an Australian territory
 - . goods re-imported after repair, alteration or renovations
 - . goods imported for repair, alteration or industrial processing that are to be exported
 - . samples.

3. - Import licensing controls are global.

4. - Intention of all licensing is to restrict the quantity of goods imported, to assist local industry.

- licensing was introduced on the products referred to in answer 2 above as other measures were considered to be ineffective in protecting local industry due to the low prices at which large quantities of secondhand equipment are available overseas.

5. - Import licensing is maintained under the Customs (Import Licensing) Regulations (statutory requirement)

- Decision to apply licensing is at Ministerial level but generally follows Government decision on particular products.
- The controls may be abolished without legislative approval but would only be so abolished by Government decision.

PROCEDURES

6(a)-The usual procedures for advising of a change in assistance arrangements, including those that involve the imposition of licensing, involve a Ministerial press statement, and where appropriate a Notice published in a Government Gazette available to the public. A detailed

explanation of administrative details is then published through an Australian Customs Notice (ACN)

- For motor vehicles less than five years of age the quantity of vehicles to be admitted each year is publicised. For the other goods subject to licensing there is no limit to the quantity that can be imported and issue of licence is based on availability of goods serving similar functions
 - There is no mandatory allocation of licences between different origins and importers are free to source from any origin
 - Details of allocations of licences to individual importers are publicised. Names and addresses of licence holders and quantities are published in a Government Gazette available to the public. Details of transfers of entitlement are also published in a Gazette.
- (b)-Established practice has been for import quota ceilings where applicable to be initially established by Government decision following public inquiry with subsequent annual ceilings determined after inquiry.
- Allocation of licences to importers following the initial period is generally on a twelve monthly basis. It is necessary for importers to apply for allocation each year
- (c)-Where an import ceiling has applied allocation of licences has been to established importers generally on the basis of relevant importations made during a base period, irrespective of whether the importer is also a domestic producer.
- Unused allocations are not usually carried forward into succeeding period.
 - Names, addresses and entitlements of importers are published in a Government Gazette available to the public.
- (d)-Generally, a period of not less than twenty-one days for application for licences is allowed following imposition announcement.
- (e)-Applications can be processed in a minimum of twenty-four hours; the maximum is indefinite where the number of applicants is high or where further information is required from applicants; the maximum is generally not in excess of three weeks from closing of applications; separate provision is sometimes made (minimum delay) for goods in transit and special applications are considered (maximum four days) for goods arriving prior to general issue.

- (f) - Where quantity restrictions apply, licences for the first period of imposition are valid for immediate importation, licences for subsequent periods are usually available some weeks in advance of the relevant importation period but, depending on industry consideration and/or hardship allocations, the period between issue and start of validity period could be nil.
 - (g) - Issue of import licences is made by the Department of Industry and Commerce (Australian Customs Service).
 - (h) - The allocation of licences is generally on the basis of import performance in a representative recent period.
 - Import licensing on secondhand vehicles and equipment is administered on a case by case basis.
 - Licence applications are considered simultaneously but hardship applications and applications to import secondhand goods are considered as received.
 - (i) - Not applicable
 - (j) - Not applicable
 - (k) - Provision to issue this type of licence exists should the need arise.
- 7 - Used, secondhand or disposals equipment are the only goods where import licensing is not subject to quantitative limits or limitations as to the country of origin. Answers (a) to (d) below relate to these goods.
- (a) - An application for a licence should be made before the goods are ordered; however licences may be issued at any time before the goods are entered for home consumption or for warehousing.
 - (b) - A licence can be issued immediately on request provided the application meets the required criteria.
 - (c) - There are no limitations as to the period of the year when applications for licences will be accepted and/or importation may be made.
 - (d) - Issue of licences is made by the Department of Industry and Commerce (Australian Customs Service).
- 8 - Applications for licences are only refused on grounds of failure to meet specified criteria.
- Applicants are advised of reasons for refusal to issue a licence.

Eligibility of Importers to Apply for Licence

- 9 - There is no restriction on who may apply for a licence
 - No registration fee is payable.
 - Names, addresses and entitlements of importers are published in a Government Gazette available to the public.

Documentational and Other Requirements for Applications for Licences

- 10 - Application forms are not generally required for issue of a licence; details obtained from submission of evidence on relevant goods during specified base period.
 - Where application is required, detail necessary is;
 - . Name and address of applicant
 - . Port of importation
 - . Tariff item
 - . Quantity and full description of goods including origin
 - . Customs value of the goods (ie. value for duty).
- 11 - To enable clearance of the goods a Customs Entry (Goods Declaration) and invoices are required to be produced.
- 12 - There is no licensing fee or administrative charge payable.
- 13 - Not applicable

Conditions of Licensing

- 14 - The period of validity of a licence is generally twelve months.
 - Consideration for extension of validity of a licence will only be under exceptional circumstances.
- 15 - No penalties attach to underuse of licences.
- 16 - Individual licences are not transferable but licence entitlement may be transferred.
- 17 - Other than as specified above, no other conditions attach to the issue of an import licence.

Other Procedural Requirements

18 - No

19 - Goods subject to import licensing are not subject to any different or separate treatments in relation to the provision of foreign exchange.

2. Fourth Schedule of the Customs (Prohibited Imports) Regulations covering narcotic drugs and certain psychotropic substances

Outline of system

1. - Import licensing is used to control the importation of narcotics and certain psychotropic substances into Australia. The system is a two-tiered structure in which an importer must first be licensed and then an import permit must be obtained for every importation of the controlled drugs.

In special circumstances, an importer may be licensed for a single importation if certain conditions are satisfied. This enables a university or other institution to import drugs for a specified purpose, although they do not normally hold an import licence. In such cases an import permit is issued and endorsed to constitute a licence for that consignment.

These controls ensure that importation is restricted to quantities necessary to meet medical and scientific requirements and that Australia's international obligations and domestic regulations are observed.

Purpose and coverage of the licensing

2. - The licensing system covers all narcotic drugs and certain psychotropic substances. These are listed in the Fourth Schedule of the Customs (Prohibited Imports) Regulations.¹ It includes all of the drugs required to be controlled under the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971. In addition, a number of other drugs not covered by the Conventions are similarly controlled in Australia.
3. - The system applies to imports of controlled drugs from all countries. Narcotics are only imported from countries which are Parties to the Single Convention on Narcotic Drugs, 1961.
4. - The use of import licences and permits enables the Government to restrict and monitor the quantities of the controlled drugs imported. By monitoring imports, the origin, quality, quantity and end-use of drugs can be checked. Restricting imports to the level required for legitimate medical and scientific use is one means of protecting the public health and welfare of the population from over-supply, diversion and abuse of controlled drugs. The system is based on the requirements of the international treaties.
5. - The Customs Act 1901: Fourth Schedule of the Customs (Prohibited Imports) Regulations.
 - Licensing of importers is a statutory requirement under the above regulations.
 - The drugs subject to licensing control are determined by statutory rules.
 - The system cannot be abolished without legislative approval.

Procedures

- 6(a) - Allocation of quotas for narcotics are not published. Each year licensed importers are invited to nominate their annual requirements. The quota allocated is based on the quantities imported by each holder of a quota in previous years and the expected medical demand. Importers are advised of the quotas allocated to them. A new licensed importer may be granted a quota if it is appropriate to the existing circumstances. Details of

¹A copy of this document is available for consultation in the GATT secretariat (Centre William Rappard, office No.1059).

quotas are not made available to exporting countries. Estimates of narcotic consumption, and stocks are forwarded to the International Narcotics Control Board (INCB). Similar estimates are forwarded for all drugs listed in Schedule 2, Convention on Psychotropic Substances. Estimates from all Parties to the international Conventions are published in United Nations documents.

- (b) - Quotas are determined annually. Quantities imported are reviewed with every application for an import permit. Additional quotas may be issued if the quota holder can demonstrate that the original quota is insufficient.
- (c) - Import permits are only issued to licensed importers. To be a domestic producer is not a requirement for a licence. If an import permit is not used within the specified time, it lapses. Unused allocations are not added to quotas for succeeding periods. The names of licensed importers would be disclosed on request, but not their quota allocations.
- (d) - Not applicable; individual determinations are made for licences and permits.
- (e) - In urgent situations an import permit can be issued immediately. (This can also constitute a licence in special circumstances - see question 1 above.) Applications for import licences and import permits are reviewed as they are received. An import permit is usually issued within two or three days.
- (f) - Import licences are valid for a finite period usually five years. Import permits are usually valid for six months. This can be extended if necessary. Import permits for narcotics issued after 30 June are only valid until 31 December.
- (g) - All applications for import licences and import permits for controlled drugs are forwarded to the Drugs of Dependence Branch, Commonwealth Department of Health. When an application for an import permit involves the importation of a new drug, new formulation, etc. approval must first be obtained from the Therapeutic Goods Branch, and if necessary, Quarantine Division, Department of Health. The applicant must obtain this approval before a permit is issued.
- (h) - Licences are issued on the basis of normal trade requirements. Applicants are approved if they meet specified conditions including previous history in the market, security provisions, record keeping, State approval, etc. Import permits are issued to

licensed importers as required, within quota limits, based on medical and scientific needs. Quotas for narcotics and certain psychotropic substances are set within national estimates submitted to the INCB. The system is flexible enough to allow part of individual quotas to be transferred from one licensee to another and for new licence holders to enter the market.

- (i) - Narcotics covered by an import permit must also be covered by an export permit issued by the appropriate authority in the exporting country. It is a provision of the Single Convention on Narcotic Drugs, 1961, that an export permit is only issued after an import permit is issued. In addition, export permits are also required from exporting countries for drugs covered by the Convention on Psychotropic Substances and certain other specified drugs. (These are listed in the Fourth Schedule of the Customs (Prohibited Imports) Regulations.)
 - (j) - Not applicable.
 - (k) - Yes; when quantities are imported for the purposes of re-export and where such quantities exceed the domestic requirements.
- 7(a) - There is no specified time for an importer to apply for a licence in advance of an importation, but an import permit would not be issued unless the importer is licensed. Similarly, there is no specified time for a licensed importer to apply for an import permit in advance of an importation, but a consignment cannot be imported without a permit.
- (b) - A licence could be issued immediately, but this would not be the usual practice. An import permit can be issued immediately to a licensed importer on request.
 - (c) - No.
 - (d) - Yes; both import licences and import permits are issued by the Director-General, Commonwealth Department of Health.
8. - An import licence is issued subject to certain conditions - see question 10 below. Prior to being issued with a licence applicants must demonstrate that they can comply with these conditions. Reasons for refusal would be given to an applicant. Applicants may appeal against a refusal to issue a licence or against a decision to revoke a licence. Import permits for narcotics may be refused if there is insufficient quota balance, security measures are inadequate or if any of the required conditions are not satisfied. Import permits for other controlled drugs may be refused if the importation is excessive to normal requirements, or if any of the required conditions are not satisfied.

- New drugs or formulations must be approved before a permit can be issued.
- There is no provision to appeal against a decision not to issue or to revoke an import permit.

Eligibility of importers to apply for licence

9. - Yes. Import licences are granted by the Director-General of the Commonwealth Department of Health subject to certain conditions and subject to applicants' meeting specified criteria.
- Import permits are only issued to licensed importers except in special circumstances - see question 1 above. A list of licensed importers is available. There is no registration fee.

Documentational and other requirements for application of licence

10. - An application for a licence must be made in writing to the Director-General, Commonwealth Department of Health, and include information as required. A copy of the regulations is attached. An application for an import permit is made in writing and must include the following:
- Name of importer; address for consignment; number and size of packs; name, pharmaceutical form and strength of drug; name (INN if any); controlled drug content (grams); name of exporter; address of exporter.
11. - The import permit is the required document and in some instances the complementary overseas export permit.
12. - There is no charge for a licence or a permit.
13. - Not applicable for a licence.
- Not required for a permit.

Conditions of licensing

14. - Import licences are valid for a finite period usually five years.
- Import permits are usually valid for six months, but the period can be varied to suit particular circumstances.
15. - There is no penalty for non-use of a licence or permit. However, if a licence is not operated on for a period of approximately three years the licence may be revoked.

- 16. - Licences and permits are not transferable.
- 17. - Licences are issued subject to the holder's meeting certain conditions.
 - Import permits may be endorsed for specific purposes, e.g. for veterinary use only, for re-export only, etc.

Other procedural requirements

- 18. - No.
- 19. - Not applicable.